

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

LAMONTE A. EALY,

Plaintiff,

-vs-

Case No. 14-CV-791

DAVID CLARKE, JR., et al.,

Defendants.

DECISION AND ORDER

The plaintiff has filed an “Amended 1983 Civil Complaint.” (ECF No. 27.) The plaintiff’s proposed amended complaint is not properly before the Court, and therefore, will not be considered.

Federal Rule of Civil Procedure 15 permits a plaintiff to amend his complaint without the permission of the Court under two limited circumstances, neither of which apply here. *See* Fed. R. Civ. P. 15(a)(1)(A)-(B). “In all other cases, a party may amend its pleading only with the opposing party’s written consent or the court’s leave.” Fed. R. Civ. P. 15(a)(1)(B)(2). The plaintiff has not obtained the defendants’ written consent, nor has the plaintiff filed a motion with the Court seeking leave to file his amended complaint. As such, the proposed amended complaint will not be considered by the Court, and the defendants need not respond.

The Court notes, however, that in the proposed amended complaint, the plaintiff seeks to dismiss David Clarke, Jr. and Kevin Nyklewicz as defendants. The Court presumes that these defendants will not object to their dismissal, and so the plaintiff is encouraged to file a separate motion with the Court requesting their dismissal, which the Court will freely grant.

The Court also notes that discovery closed on April 24, 2015, and that dispositive motions are due to be filed no later than May 25, 2015, which is less than two weeks away. In addition, while the proposed amended complaint appears to include more details regarding the plaintiff's allegations, it does not appear to include additional claims, nor does it appear that the plaintiff may seek many of the newly added requests for relief.

Accordingly, based on the Court's cursory review, it appears that the plaintiff would stand to gain little, if anything, should he choose to seek leave to file this proposed amended complaint. The plaintiff is cautioned to closely consider this Court's observations when determining how he would like to proceed.

**NOW, THEREFORE, BASED ON THE FOREGOING, IT IS
HEREBY ORDERED THAT** the plaintiff's "Amended 1983 Civil
Complaint" (ECF No. 27) is **STRICKEN**.

Dated at Milwaukee, Wisconsin, this 11th day of May, 2015.

BY THE COURT:


HON. RUDOLPH T. RANDA
U.S. District Judge